

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CARYL VONDRA, Personal Representative of
the Estate of Melvin Vondra,

WILLIAM MEYERS, Personal Representative
of the Estate of Patricia Meyers,

COREY ILG, Personal Representative of the
Estate of Duane Ilg,

Plaintiffs,

v.

BARTON SOLVENTS INC., CHEVRON U.S.A.
INC., CITGO PETROLEUM CORPORATION,
SHELL CHEMICAL, L.P., d/b/a SHELL
CHEMICAL CO., SHELL OIL CO., UNION OIL
COMPANY OF CALIFORNIA d/b/a UNOCAL
CORP.,

Defendants.

Case No. 8:07CV85

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

COMES NOW Defendants Shell Oil Company, Union Oil Company of California, Chevron U.S.A., Inc., and Shell Chemical L.P. (collectively "Defendants"), pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, and hereby move this Court for an Order of Summary Judgment in its favor on all claims presented by Caryl Vondra, Corey Ilg and William Meyers ("Plaintiffs") in their Fourth Amended Complaint (Filing No. 180) because there is no genuine issue of material fact in relation to such claims and Defendants are entitled to judgment as a matter of law.

Defendants move this Court for an Order of Summary Judgment in its favor on the following bases:

1. Plaintiffs did not, as a matter of law, owe Defendants a duty to warn of an unreasonably dangerous condition of the products allegedly manufactured, distributed, supplied

or marketed by Defendants where Goodyear was a sophisticated user of the products to which Plaintiffs were allegedly exposed;

2. Defendants are entitled to summary judgment on Plaintiffs' strict liability and implied warranty claims because Defendants did not sell or distribute any defective or "unreasonably dangerous" products to Goodyear, or fail to adopt a reasonable alternative design; and

3. Because there is no evidence to support proximate causation, an essential element of Plaintiffs' claims, Defendants are entitled to summary judgment on all of Plaintiffs' claims as a matter of law.

WHEREFORE Defendants respectfully request the Court enter judgment in favor of Defendants on Plaintiffs' claims, Counts I through V, as a matter of law.

Dated this 29th day of December, 2008.

SHELL OIL COMPANY, UNION OIL
COMPANY OF CALIFORNIA, CHEVRON
U.S.A. INC. AND SHELL CHEMICAL LP,
Defendants

By s/ Robert M. Slovek

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CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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